

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Julian Phillips	Team: Squad #5	CCRB Case #: 201901298	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Saturday, 02/02/2019 6:57 PM	Location of Incident: Inside § 87(2)(b)	Precinct: 67	18 Mo. SOL 8/2/2020	EO SOL 3/19/2021	
Date/Time CV Reported Sat, 02/02/2019 11:15 PM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Tue, 02/12/2019 11:19 AM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. SGT Dennis Friendly	00233	930185	NARCBBS
2. DT3 Phillip Johnson	5533	947112	NARCBBS
3. DT3 Albert Jackson	03573	933869	NARCBBS

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. DT3 Vladimir Machulskiy	1318	942093	NARCBBS
2. POM Michael Becker	00117	954892	NARCBBS
3. DT3 Terrence Smith	5749	943828	NARCBBS
4. POM Antoine Gilkes	09869	950494	NARCBBS

Officer(s)	Allegation	Investigator Recommendation
A.SGT Dennis Friendly	Force: Sergeant Dennis Friendly used physical force against § 87(2)(b)	§ 87(2)(b)
B.SGT Dennis Friendly	Force: Sergeant Dennis Friendly used physical force against § 87(2)(b)	§ 87(2)(b)
C.DT3 Albert Jackson	Force: Detective Albert Jackson used physical force against § 87(2)(b)	§ 87(2)(b)
D.DT3 Phillip Johnson	Force: Detective Phillip Johnson used physical force against § 87(2)(b)	§ 87(2)(b)
E.SGT Dennis Friendly	Force: Sergeant Dennis Friendly hit § 87(2)(b) against the ground.	§ 87(2)(b)

Case Summary

On February 2, 2019, Sergeant Dennis Friendly of Brooklyn South Narcotics reported this incident to IAB, generating original log number 2019-4506. On February 12, 2019, IAB forwarded this complaint to the CCRB.

On February 2, 2019, at approximately 6:57 p.m., § 87(2)(b) sold a small quantity of marijuana to an undercover officer in a “buy and bust” operation. § 87(2)(b) fled into the vestibule of § 87(2)(b) pursued by Sgt Friendly and Detectives Albert Jackson and Phillip Johnson, also of Brooklyn South Narcotics. Sgt. Friendly struck § 87(2)(b) in the face (**Allegation A: Force**, § 87(2)(g)). Sgt. Friendly, Det. Jackson, and Det. Johnson took § 87(2)(b) to the ground (**Allegations B-D: Force**, § 87(2)(g)). While taking § 87(2)(b) to the ground, Sgt. Friendly used additional force to strike § 87(2)(b) against the ground (**Allegation E: Force**, § 87(2)(g)). § 87(2)(b) sustained a laceration to his chin requiring stitches.

The investigation obtained surveillance footage of § 87(2)(b)'s apprehension (**Board Review 01, half-speed clip at Board Review 16, summarized at Board Review 15**) and of § 87(2)(b) and the officers in front of the incident address (**Board Review 02-05**). All references to video evidence below refer to the time stamp in the video player, not the on-screen clock embedded in the video itself.

Findings and Recommendations

Allegation (A) Force: Sergeant Dennis Friendly used physical force against § 87(2)(b)

Video footage recorded by a surveillance camera in the vestibule of § 87(2)(b) (**Board Review 01, half-speed clip at Board Review 16**) shows § 87(2)(b) running into the vestibule at 00:00. § 87(2)(b) pulls on the locked door leading from the vestibule into the lobby for less than one second. At 00:01, § 87(2)(b) turns towards Sgt. Friendly who is visible approaching the open front door of the vestibule. § 87(2)(b) immediately turns and stands with his hands by his sides facing Sgt. Friendly, who is running through the open door. At 00:02, Sgt. Friendly raises his forearm and runs into § 87(2)(b) with his forearm striking § 87(2)(b)'s face. Sgt. Friendly strikes § 87(2)(b)'s head with such force that his head jerks backward and strikes the closed lobby door behind him.

§ 87(2)(b) testified (**Board Review 06**) that when he saw Sgt. Friendly, Det. Jackson, Det. Johnson, and Detective Vladimir Machulskiy running towards him, he ran half a block and into the vestibule of § 87(2)(b). § 87(2)(b) denied having been selling narcotics and stated that the officers did not identify themselves or otherwise say anything while pursuing him. § 87(2)(b) stated that the first physical contact that he recalled an officer making with him was Det. Jackson grasping his ankles (discussed in the analysis of Allegations B through E below), although he alleged that Sgt. Friendly struck him against the closed lobby door after he was handcuffed and had stood back up.

Sgt. Friendly testified (**Board Review 07**) that, prior to the incident, he had never previously interacted with § 87(2)(b) or learned his name or criminal history. After another member of the team informed Sgt. Friendly that § 87(2)(b) had sold narcotics and relayed a description of § 87(2)(b), Sgt. Friendly observed § 87(2)(b) walking and exited his vehicle. § 87(2)(b)

turned to look at Sgt. Friendly and immediately began to run. Sgt. Friendly yelled “police” and “stop” while pursuing § 87(2)(b). Sgt. Friendly did not testify that he saw any specific indication that § 87(2)(b) was armed. Sgt. Friendly ran into the vestibule, where he saw § 87(2)(b) attempting to open the lobby door, and accidentally ran into § 87(2)(b) because of his momentum. Sgt. Friendly did not recall where he made contact when he ran into § 87(2)(b) and he did not recall his forearm striking § 87(2)(b)’s face. When showed video footage of the incident, Sgt. Friendly confirmed that he saw himself strike § 87(2)(b) in the face, but again affirmed that this was accidental.

Sgt. Friendly prepared a Threat, Resistance, or Injury report (**Board Review 08**), on which he noted that he performed a forcible takedown of § 87(2)(b) but did not document that he used a hand strike or any other force. Sgt. Friendly indicated on the report that § 87(2)(b) engaged in “wrestling/grappling” and “pushing/shoving” against officers, and that he used force to “overcome resistance or aggression” and because § 87(2)(b) was a “fleeing suspect.” Sgt. Friendly indicated on the report that he believed § 87(2)(b) to be under the influence of drugs, but Sgt. Friendly did not recall this during his CCRB testimony.

Det. Jackson (**Board Review 09**) and Det. Johnson (**Board Review 10**) testified consistently that they were informed that § 87(2)(b) had sold narcotics to the undercover officer, that § 87(2)(b) ran from pursuing officers who yelled “police” and “stop,” and that they did not know § 87(2)(b)’s criminal history or suspect him to be armed. Det. Jackson testified that Sgt. Friendly’s elbow struck § 87(2)(b)’s chest, while Det. Johnson denied seeing Sgt. Friendly strike § 87(2)(b).

§ 87(2)(g)

§ 87(2)(b) The video footage further showed that Sgt. Friendly struck § 87(2)(b) in the face before § 87(2)(b) engaged in any actions that could reasonably constitute resistance. § 87(2)(g)

NYPD Patrol Guide Procedure 221-01 (**Board Review 11**) states that force may be used when it is reasonable to place a person in custody or to prevent escape from custody. Officers must use only the reasonable force necessary to gain control or custody of an individual. Any use of force must be reasonable under the circumstances and not excessive. The procedure specifies ten factors that should be used to assess the reasonableness of force, including the nature and severity of the crime, other actions taken by a subject, the duration of the action, the immediacy of the perceived threat or harm to the subject, bystanders, or officers, whether the subject is actively resisting, whether the subject is attempting to evade arrest by flight, the number of subjects in comparison to the number of officers, the size, age, and condition of the subject in comparison to officers, the subject’s violent history, the presence of a hostile crowd, and whether the subject is under the influence of a stimulant or narcotic which would affect pain tolerance or increase the likelihood of violence.

[illegible]

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

against the ground.

Video footage shows Det. Jackson and Det. Johnson running into the vestibule at 00:03, several seconds after Sgt. Friendly first makes contact with § 87(2)(b). At this time, Sgt. Friendly is pressing § 87(2)(b)'s torso downwards such that § 87(2)(b) is leaning forward. Det. Jackson and Det. Johnson reach for § 87(2)(b)'s arms, which are dangling by his side. At 00:08, Det. Jackson reaches down and grasps § 87(2)(b)'s ankles while Sgt. Friendly and PO Johnson hold § 87(2)(b)'s upper body. At 00:10, Det. Jackson lifts § 87(2)(b)'s legs while Sgt. Friendly continue to hold § 87(2)(b)'s upper body such that § 87(2)(b) is suspended perpendicular to the floor. § 87(2)(b)'s body appears to be limp, and § 87(2)(b) willingly brings his left hand behind his back. Sgt. Friendly lifts § 87(2)(b) slightly and accelerates his body downwards, and Det. Jackson releases § 87(2)(b)'s legs. § 87(2)(b) strikes the floor on his front and is immediately handcuffed.

§ 87(2)(b) testified that he fell to the ground as a result of Det. Jackson grasping his ankles and pulling his legs out from under him. § 87(2)(b)'s chin struck the ground, causing a laceration that required four stitches.

Sgt. Friendly testified that, after running into § 87(2)(b) he ordered § 87(2)(b) to turn around and to stop resisting. § 87(2)(b) tensed his body and did not give his hands to Sgt. Friendly to be handcuffed. Sgt. Friendly decided to take § 87(2)(b) to the ground because this would be the “minimum force necessary” to handcuff § 87(2)(b) and because he was concerned that § 87(2)(b) would strike the lobby door while struggling in a standing position. Sgt. Friendly did not recall Det. Jackson pulling § 87(2)(b) s legs and could not say precisely how § 87(2)(b) went to the floor besides that § 87(2)(b) s weight shifted and both § 87(2)(b) and Sgt. Friendly fell to the floor.

Det. Jackson testified that, when he first approached § 87(2)(b) was attempting to run out of the vestibule back to the street. Det. Jackson attempted to grab § 87(2)(b)'s hands, and § 87(2)(b) resisted by pulling away from the officers and refusing to give up his hands. Det. Jackson went down and grabbed § 87(2)(b)'s legs with the intention of bringing § 87(2)(b) to the ground because it is easier to handcuff someone on the ground. § 87(2)(b) went

Civilian and Officer CCRB Histories

- This is the first CCRB complaint to which § 87(2)(b) has been a party (**Board Review 12**).
- Sgt. Dennis Friendly has been a member of service for 17 years and has been a subject in 24 CCRB cases and 52 allegations, of which two were substantiated:
 - #201001417 involved substantiated allegations of physical force, entry and search of premises, refusal to provide name and shield number, and threat of arrest against Sgt. Friendly. The Board recommended Charges. The NYPD imposed Command Discipline “B” for the entry/search and name/shield allegations, and took no disciplinary action regarding the force and threat of arrest allegations. In this case, the physical force allegation involved Sgt. Friendly punching a man in the chest while entering his apartment.
 - #201212831 involved substantiated allegations of entry and search of premises against Sgt. Friendly. The Board recommended Charges, but the case was dismissed and the NYPD imposed no discipline. In this case, the CCRB also notified the NYPD that Sgt. Friendly intentionally provided a false official statement to the CCRB.
 - Sgt. Friendly has been the subject of four previous allegations that he struck a civilian’s face, all of which have been truncated or closed as unsubstantiated. Specifically, it was alleged in #201107961 that Sgt. Friendly punched a prisoner in the face, in #201109514 that Sgt. Friendly punched a prisoner in the face, in #201110586 that Sgt. Friendly pushed a prisoner against a vehicle causing him to strike his face and sustain contusions, and in #201212831 that Sgt. Friendly punched an individual in the face while placing him under arrest.
- Det. Albert Jackson has been a member of service for 16 years and has been a subject in eight CCRB cases and 18 allegations, of which four were substantiated. § 87(2)(g)
 - #201004951 involved substantiated allegations of frisk and search of person against Det. Jackson. The Board did not make a disciplinary recommendation. The NYPD imposed Instructions for the frisk allegation, and took no disciplinary action regarding the search allegation.
 - #201206205 involved substantiated allegations of frisk and search of person against Det. Jackson. The Board recommended Charges, Det. Jackson was found guilty at trial, and the NYPD imposed a forfeiture of three vacation days.
- Det. Phillip Johnson has been a member of service for 11 years and has been a subject in eight CCRB cases and 17 allegations, of which six were substantiated:
 - #201702363 involved substantiated allegations of three frisks, interference with recording device, vehicle search, and discourtesy against Det. Johnson. The Board recommended Charges, Det. Johnson was found guilty at trial, and the NYPD imposed a forfeiture of ten vacation days. § 87(2)(g)

Mediation, Civil, and Criminal Histories

- This complaint was not suitable for mediation.
- As of February 20, 2020, the New York City Office of the Comptroller has no record of a Notice of Claim being filed in regards to this incident (**Board Review 13**).

- In the criminal case resulting from § 87(2)(b)'s arrest in this incident, he was charged with § 87(2)(b). The case has been adjourned in contemplation of dismissal, and is due to be closed on § 87(2)(b) (Board Review 14).

- § 87(2)(b)

Squad No.: 5

Investigator: DG IM Giansante for Inv. Phillips April 2, 2020
Signature Print Title & Name Date

Squad Leader: Daniel Giansante IM Daniel Giansante April 2, 2020
Signature Print Title & Name Date

Reviewer: _____
Signature Print Title & Name Date